



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Utah State Office
324 South State, Suite 301
Salt Lake City, Utah 84111-2303

IN REPLY REFER TO:

3598

UTU-0126693

(UT-921)



JUL 07 1995

CERTIFIED MAIL--Return Receipt Requested

Mr. Robert E. Covington
Consultant
Ziegler Chemical & Mineral
P.O. Box 1845
Vernal, Utah 84078

Re: Minor Modification (Exploration Plan) to the Cowboy-Bandana Mine
Plan for Gilsonite Lease U-0122693, T. 8 S., R. 24 E.,
Section 33, SLM for Two Surface Drill Holes.

NOTICE OF NONCOMPLIANCE

The Bureau of Land Management (BLM) is issuing this notice of noncompliance to Ziegler Chemical and Mineral for failure to comply with the approved minor modification to the Cowboy-Bandanna Mine plan (exploration plan) for gilsonite lease U-0122693.

On April 10, 1995, BLM received a request to explore for the location of the gilsonite vein that was currently being mined as follows, "... a 45 degree angle hole in a southwest direction to intersect the Cowboy gilsonite vein at a proposed depth of 500'. . . . It is planned to drill a second hole by moving the rig 250' to the southwest to intersect the vein at a depth of 250 feet."

BLM granted verbal approval of this action on April 11, 1995. BLM gave written approval on May 9, 1995. This stated the following: "This minor modification includes an exploration plan for the drilling of two surface holes, 1.875 inches in diameter in the following locations:

Hole No. 1. T. 8 S., R. 24 E., SLM, Section 33, (675' FSL & 2100' FEL)

Hole No. 2. 250' SW of hole number 1."

BLM conducted a site inspection on June 27, 1995. It was discovered at this time that three holes were drilled at 72', 73', and 81' from the vein. "Approved exploration and mining plans may be modified at any time to adjust to changed conditions or to correct an oversight. To obtain approval of an exploration or mining plan modification, the operator/lessee shall submit a written statement of the proposed modification and the justification for such modification. Any proposed exploration or mining plan modifications(s) shall not be implemented unless previously approved by the authorized officer." (43 CFR 3592.1(d)(1)-emphasis added).

BLM has enclosed a copy of the 43 CFR 3500 regulations for your assistance.

Requirements to Correct the Approved Exploration Plan Noncompliance:

BLM will not allow any further drilling on this Federal lease without a new exploration plan submitted as a minor modification to the mine plan. Ziegler must submit a new exploration plan 30 days prior to execution of any additional drilling for approval.

Commencing any new drill holes prior to the required approval may result in a cessation of operations order being placed on lease U-0122693 as per 43 CFR 3598.4(a).

Appeal Rights

You have 30 calendar-days from the receipt of this notice to come into compliance. Following the compliance period, you then have 30 calendar-days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 calendar-days following at the end of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

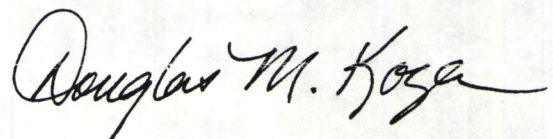
If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that you appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if a stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of the immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

Sincerely,



Douglas M. Koza
Deputy State Director, Mineral Resources

2 Enclosures

1. 43 CFR 3500 Regulations
2. Form 1842-1

cc: Norman Haslem w/enclosures
Ziegler Mineral and Chemical Corporation
Star Route
Vernal, Utah 84078

Tony Gallegos, w/o enclosure
Utah Division of Oil, Gas, and Mining,